UNITED STATES PATENT AND TRADEMARK OFFICE

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/577,589	SCHMIDT ET AL.
	Examiner	**Art Unit**	
	MICHAEL R. VAUGHAN	2431	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>23 December 2008</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>22-46</u> is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>22-46</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

The instant application having Application No. 10/577589 is presented for

examination by the examiner. Claims 22-46 are pending. Claims 22, 31, 43, and 46

have been amended.

Claim Objections

The currently filed amendment overcomes the previous claim objections.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly
claiming the subject matter which the applicant regards as his invention.

Claims 22-46 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

As per claim 22, the phrase "the contents" is undefined. Furthermore, the scope

of "not having access" is ambiguous. This constitutes a negative limitation and the

metes and bounds of the claim are impossible to definitely scope. Instead of limiting the

claim in terms of what it does, the amendment addresses something which the claimed

invention does not do. By introducing this negative claim and its undefined contents,

the claim fails to point out and distinctly claim the subject matter. Appropriate correction

is required. Dependent claims 23-45 are also rejected for at least the same reasons.

Claim 46 is rejected for the same reason as 22.

Claim 32 is rejected for the second telecommunication terminal not having

antecedent basis.

The claims are full of terms such as "useful" and "suitable". These terms are

subjective and prompt the question of what are non-useful objects and unsuitable

objects? The language of the claims seems to be a literal translation of the foreign

priority document. This causes difficulty in determining the scope because of the

unfamiliar sentence construction and verbiage. For instance in ascertaining the scope

of claim 22, there is no support for where the encrypted object originates. A method of

transmitting something to a destination must involve a source. Having the source and

destination helps to define what the method is all out. It allows the scope to be drawn

around the invention as opposed to only getting half of the picture. Many of these types

of problems could be fixed with a better translation into the English language.

Response to Arguments

Applicant's arguments filed 12/23/08 have been fully considered but they are not

persuasive. Applicant has alleged that the prior art of record fails to teach the amended

limitation.

First, the amendment is interpreted as a negative limitation in which it attempts to show something in which the invention does not do instead of limiting the scope by how the invention operates. Therefore Examiner does not give this limitation any patentable weight. However, Examiner will address the allegation that the two prior art references combined can not teach the claimed invention. It is the Examiner's interpretation of Applicant's arguments that Mostafa and Kobata could not teach forwarding encrypted data packets. Examiner respectfully disagrees. Examiner, upon reexamination of the claims, finds no support for the argument because the claim is defined in extremely broad terminology. For instance in claim 22, the phrase "checking the suitability of the encrypted useful data object" could have nothing to do with the prior art teaching of translation. This could be interpreted as a CRC or hash check. This could merely be error checking or digital rights information. The claim says that a reference indicates this. This referencing is clearly taught in the prior art (see Kobata paragraphs 0183 and 0277 for example). Kobata teaches the use of header and other appendages for encrypted file to orchestrate their transmission. The idea of encrypted data objects and encapsulating them with header and reference data is extremely well known in the art. A switch does not need to decrypt the data object in order to process it. Kobata teaches adding these important references are added explicitly for these reasons. Therefore the combination of Mostafa and Kobata clearly can check for suitability of an encrypted data object without decryption. The claim again is ambiguous in defining what checking a suitability is, and what "not having access" means. Similarly, the undefined contents of the encrypted object could mean the object itself or some other content of the encrypted

object. In light of these ambiguousness and indefiniteness, Examiner finds the prior

cited art to teach on all of the limitations of the claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

Claims 22-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over

WO 02/43414 to Mostafa in view of USP Application Publication 2002/0077986 to

Kobata et al, hereinafter Kobata.

As per claim 22, Mostafa teaches a method of transmitting useful data objects

[media content] to a first telecommunications terminal, which comprises the following

steps:

in a switching component [MMS Replay B] of a telecommunications network,

providing an useful data object to be transmitted to the first telecommunications terminal

with a reference [address] (pg. 7, lines 6-7) for checking a suitability of the useful data

object for the first telecommunications terminal (pg. 6, lines 17-18);

determining, with the switching component, a profile [recipient data] (pg. 7, line

23) relating to capabilities of the first telecommunications terminal to process a useful

data object (pg. 6, lines 19-20);

transmitting, with the switching component, a request together with the

determined profile of the first telecommunications terminal to a data provisioning

component [MMS Server] in accordance with an address contained in the reference for

checking whether the useful data object to be transmitted is suitable for processing by

the first telecommunications terminal (pg. 7, lines 25 and pg. 17, lines 6-8);

transmitting, from the data provisioning component to the switching component,

information relating to a result of the check on the suitability of the useful data object to

be transmitted for the first telecommunications terminal (pg. 6, lines 21-23 and pg. 19,

line 5); and

processing, with the switching component, an useful data object in accordance

with the information relating to the check, and notifying the first telecommunications

terminal thereof (pg. 7, line 5).

Mostafa is silent in explicitly disclosing that the useful data object is encrypted.

Kobata teaches a similar message relay system in which the useful data object are

encrypted and include digital rights assigned to them (0072). As one of ordinary skill in

the art would know, encryption is essential if one wants to protect the content from

unauthorized users. Encrypting the useful data objects of Mostafa would ensure users

could not intercept them and thereby cheat the system of not having to subscribe to the

objects. Therefore it would have been obvious to one of ordinary skill in the art at the

time of the invention to encrypt the objects of Mostafa because it would increase the

security of the system.

As per claim 23, Mostafa teaches the encrypted useful data object and the

reference are provided in a container object (pg. 3, lines 17).

As per claim 24, Mostafa teaches transmitting the encrypted useful data object

from a second telecommunications terminal to the switching component, for forwarding

to the first telecommunications terminal (pg. 17, lines 5-10).

As per claim 25, Mostafa teaches the step of determining the profile relating to

the capabilities of the first telecommunications terminal comprises sending a query to a

database of the telecommunications network wherein the terminal device characteristics

are stored [stored in MMS server] (pg. 18, lines 26-27 and pg. 19, lines 24-30).

As per claim 26, Mostafa teaches determining the profile relating to the

capabilities of the first telecommunications terminal by sending a query to the first

telecommunications terminal (pg. 20, line 5-10).

As per claim 27, Mostafa teaches the address contained in the reference

includes a URL (pg. 20, line 11).

As per claim 28, Mostafa teaches the encrypted useful data object to be

transmitted is also transmitted to the data provisioning component in addition in the

request of the switching component to the data provisioning component (pg. 18, line

22).

As per claim 29, Mostafa teaches if the result of the check by the data

provisioning component is negative, the information to the switching component

contains a pointer to a data provisioning component from which the switching

component can request a suitable useful data object in accordance with the profile of

the first telecommunications terminals (pg. 7, lines 26-27 and pg. 19, line 10).

As per claim 30, Mostafa teaches if the result of the check by the data

provisioning component is negative, the information to the switching component

contains a suitable useful data object (pg. 7 lines 26-27 and pg. 19, line 12).

As per claim 31, Mostafa teaches the first telecommunications terminal, in

response to the notification of the switching component concerning the provision of a

suitable useful data object, transmits a request for the suitable encrypted useful data

object to be sent to the switching component, and the switching component thereupon

sends the suitable encrypted useful data object to the first telecommunications terminal

(pg. 7, lines 6-7).

As per claim 32, Mostafa teaches transmitting data to and from at least one of

the first and second telecommunications terminals via an air interface (pg. 2, lines 12-

13).

As per claim 33, Mostafa teaches at least one of the first and second

telecommunications terminal comprises a radio module (pg. 2, lines 12-13).

As per claim 34, Mostafa teaches at least one of the first and second

telecommunications terminal is a mobile telephone, a cordless telephone, or a portable

computer. (pg. 2, lines 12-13).

As per claim 35, Mostafa teaches transmitting messages to and from at least one of the first and second telecommunications terminal using WAP protocols or Hypertext Transfer Protocol [URL] (pg. 20, line 11).

As per claim 36, Mostafa teaches the first telecommunications terminal is part of a first telecommunications network (pg. 2, lines 12-13).

As per claim 37, Mostafa teaches the first telecommunications network is a mobile radio network (pg. 2, lines 12-13).

As per claim 38, Mostafa teaches the first telecommunications network operates in GSM or UMTS standard (pg. 2, line 17).

As per claim 39, Mostafa teaches the switching component forms a part of a second telecommunications network that is connected to the first telecommunications network (Fig. 2).

As per claim 40, Mostafa teaches the second telecommunications network is a telecommunications network based on Internet protocols (pg. 20, lines 10-13).

As per claim 41, Mostafa teaches the second telecommunications network is a telecommunications network based on Hypertext Transfer Protocol (pg. 20, lines 10-15).

As per claim 42, Mostafa teaches the first and second telecommunications networks are connected to one another by way of a WAP gateway (pg. 2, lines 25-29 and pg. 17, lines 21-26). It is inherent that the relays are performing the function of a gateway more particularly MMC uses WAP "push".

As per claim 43, Mostafa does not explicitly teach transmitting a rights object containing a key and usage rights for the assigned useful data object. Kobata teaches

following receipt of the encrypted useful data object, transmitting a rights object

containing a key and usage rights for the assigned useful data object (0108). Not only

does Kobata teach encrypted data objects but also supplies a set of digital right

governing the use of the encrypted data objects. The use of digital rights is well known

in the art of security. Digital rights give the owner of such rights, control over how an

end-user accesses the data objects. Mostafa teaches the use of subscription based

control of data objects. This is one form of usage rights. Therefore it would have been

obvious to one of ordinary skill in the art at the time of the invention to transmit a rights

object to the recipient because it would allow the creator of the content some control

over how the content is used. Encryption is not enough to adequately protect content

from piracy.

As per claim 44, Mostafa teaches the data provisioning component is a server of

a content provider (pg. 1, lines 18- 22).

As per claim 45, Mostafa teaches the useful data object contains text information,

audio information, video information, an executable program, a software module, or a

combination thereof (pg. 1, lines 24-27).

As per claim 46, Mostafa teaches a switching component, a data provisioning

component, and at least one first telecommunications terminal (Fig. 2);

a switching component [MMS Replay B] of a telecommunications network,

providing an useful data object to be transmitted to the first telecommunications terminal

with a reference [address] (pg. 7, lines 6-7) for checking a suitability of the useful data

object for the first telecommunications terminal (pg. 6, lines 17-18);

determining, with the switching component, a profile [recipient data] (pg. 7, line 23)

relating to capabilities of the first telecommunications terminal to process a useful data

object (pg. 6, lines 19-20);

transmitting, with the switching component, a request together with the

determined profile of the first telecommunications terminal to a data provisioning

component [MMS Server] in accordance with an address contained in the reference for

checking whether the useful data object to be transmitted is suitable for processing by

the first telecommunications terminal (pg. 7, lines 25 and pg. 17, lines 6-8);

transmitting, from the data provisioning component to the switching component,

information relating to a result of the check on the suitability of the useful data object to

be transmitted for the first telecommunications terminal (pg. 6, lines 21-23 and pg. 19,

line 5); and

processing, with the switching component, an useful data object in accordance

with the information relating to the check, and notifying the first telecommunications

terminal thereof (pg. 7, line 5).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL R. VAUGHAN whose telephone number is (571)270-7316. The examiner can normally be reached on Monday - Thursday, 7:30am - 5:00pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Kim Vu can be reached on 571-272-3859. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. R. V./

Examiner, Art Unit 2431

/Syed   Zia/

Primary Examiner, Art Unit 2431